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## RECENT IMPORTANT DECISIONS.

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**BANKRUPTCY—DISCHARGEABLE DEBTS—PROPERTY OBTAINED BY FRAUD—LEGAL SERVICES.**—Where a bankrupt, by false representations as to his property holdings and income, induced plaintiff thereby to render him valuable legal services, *held* that such fraudulent statements did not render a subsequent discharge in bankruptcy inoperative as a release from liability for such services—they not constituting “property” within the meaning of § 17 (2) of the Bankruptcy Act of 1898, as amended by Act of 1903 (32 STAT. 797, 798) which excepts from the general release of a discharge “liabilities for obtaining *property* by false pretenses or false representations.” *Gleason v. Thaw* (1915) 35 Sup. Ct. 287.

It may well be doubted if Congress had in mind to discriminate against the lawyer, doctor, teacher and other professional man in favor of the merchant and business man because, in the latter case, the bankrupt has obtained tangible goods and in the former he has secured by false representations that which may, as a product of many years of preparation and experience, be far more valuable than mere goods—viz. services. Yet such was the burden of defendant's contention successfully maintained in two prior adjudications of this same point in inferior federal courts. (185 Fed. 345; 196 Fed. 359). In the latter decision the court intimates very strongly a desire to ignore any distinction between property tangible and intangible, but considers itself bound by the doctrine of *stare decisis*. The ground for decision emphasized by the Supreme Court seems to be the fact that Congress must have intended a uniform use of the word “property” throughout the whole statute. In the seventy times that it occurs therein without restriction, it is asserted that not once does it plainly refer to professional services, and in a majority of cases an attempt to so render it would produce absurd results. The definition of property sanctioned by the court is “something subject to ownership, transfer or exclusive possession and enjoyment, which may be brought within the dominion and control of a court through some recognized process”—and plainly this excludes professional services of the nature rendered by plaintiff.

**BANKRUPTCY—DISSOLUTION OF LIEN.**—A Louisiana statute gave a lien for the purchase price of agricultural products “for and during the space of five days only after the day of delivery; within which time the vendor shall be entitled to seize the same in whatsoever hands or place it may be found and his claim for the purchase money shall have preference over all others.” Plaintiff company, an unpaid vendor of cotton, brought suit in a Louisiana state court to foreclose such lien and to obtain a general judgment against its vendee; writs of sequestration and attachment were issued, but were apparently not executed; garnishee summons was issued and served on certain debtors of the vendee and on a railroad which had some of the

cotton in its possession. Six days after the beginning of this suit the vendee was adjudged bankrupt; his receiver in bankruptcy and the garnishees claim that the lien obtained by the suit in the state court is rendered void by § 67 f of Bankruptcy Act of 1898. The trial court held that the vendor's lien had become effective by service of the garnishment summons and was not dissolved by the bankruptcy; the Supreme Court of Louisiana reversed this decision on the ground that the garnishment proceedings did not bring the property into the possession of the state court, which was necessary for the creation of the statutory vendor's lien. (132 La. Ann. 231, 61 So. 212.) The vendor took the case to the United States Supreme Court by writ of error, where it was held that the lien was dissolved by § 67 f. *Lehman Stern & Co. v. S. Gumbel & Co.* (1915) 35 Sup. Ct. 307.

The plaintiff insisted that the garnishment operated as a seizure of the cotton and that while § 67 f may have dissolved the lien created by the attachment it did not affect the lien given by statute on the cotton, relying on *Henderson v. Mayer*, 225 U. S. 631, in which it was held that § 67 f did not avoid a landlord's lien by distress for rent. See also *In re Emslie*, 102 Fed. 291, 42 C. C. A. 350, and *In re Grissler*, 136 Fed. 754, 69 C. C. A. 406, in which mechanics' liens obtained within four months of bankruptcy were held not to be avoided because not "obtained through legal proceedings." But when the Supreme Court of Louisiana decided that the statutory vendor's lien had failed for lack of actual seizure of the cotton, the only lien left was the lien arising from the garnishment, and it seems clear that this was avoided by § 67 f. Such liens have always been held to be "obtained through legal proceedings" and to be dissolved by subsequent adjudication of the debtor within four months thereafter. *In re McCartney*, 109 Fed. 621; *In re Beals*, 116 Fed. 530; *In re Ransford*, 194 Fed. 658; *Longley v. McCann*, 90 Ark. 252; *Cavanaugh v. Fenley*, 94 Minn. 505. The effect of dissolution is to transfer to the trustee in bankruptcy the indebtedness of the garnishee to the bankrupt, and he has the exclusive right to lay claim to and collect the same. *Wright-Dalton-Bell-Anchor Store Co. v. Sanders*, 142 Mo. App. 59, 125 S. W. 517.

BANKRUPTCY—EXECUTORY CONTRACT—Plaintiff, claiming that involuntary bankruptcy proceedings against a partnership constituted an anticipatory breach of an executory contract, filed his claim in the bankruptcy court for damages resulting from such breach. The claim was rejected as not provable (*In re Inman*, 175 Fed. 312.) Whereupon he sued defendant, one of the partnership firm, in a state court, and a demurrer to his petition was sustained on the grounds that, since the intervening cause was beyond the control of the partnership or any of its members in the sense of being a voluntary act or breach, the injury resulting was *damnum absque injuria* and further, that since he had not appealed from the decision in the bankruptcy court the question was *res judicata*. Upon appeal the demurrer was sustained and final judgment entered for defendant (*Lesser v. Gray*, 8 Ga. App. 605, 70 S. E. 104). The United States Supreme Court on appeal, affirmed the decision of the Georgia Court of Appeals. *Lesser v. Gray*, 35 Sup. Ct. 227.